

FIRST REVIEW CONFERENCE OF THE  
STATES PARTIES TO THE CONVENTION  
ON THE PROHIBITION OF THE USE,  
STOCKPILING, PRODUCTION AND  
TRANSFER OF ANTI-PERSONNEL MINES  
AND ON THEIR DESTRUCTION

1 December 2004

ENGLISH ONLY

Nairobi, 29 November – 3 December 2004

## **PROPOSED TEXT FOR THE “DRAFT NAIROBI ACTION PLAN 2005-2009”<sup>1</sup>**

### Paper introduced by South Africa

The following proposals are proposed to replace the relevant text as contained in document APLC/CONF/2004/L.4

#### **Action #19:**

“Urgently develop and implement national plans **to meet their ten year clearance obligations under Article 5 of the Convention**, using a process that involves, where relevant, local actors and mine affected communities, emphasising, **as a matter of priority, the clearance of areas that have the highest impact**, and ensuring that task selection, prioritisation and planning of mine clearance where relevant are undertaken in mine-affected communities.”

#### Remarks:

- South Africa is of the view that while States should assess which areas should be cleared as a matter of priority, this should be done bearing in mind the obligation on States Parties to clear all areas under their jurisdiction or control within their 10 year deadlines. The absence of any mention in Action #19, as presently drafted, of the need for States Parties to also clear all affected areas, including so-called “low impact” areas, needs to be emphasised. Inserting a cross-reference to Article 5, as has been done for instance in Actions # 17, 18, 20 and 22 should ensure this.

#### **Action #46**

“Continue to support, as appropriate, mine action to assist affected populations in areas under the control of armed non-state actors, particularly in areas under the control of actors which have agreed to abide by the Convention's norms, **whilst bearing in mind the needs of all affected populations.**”

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<sup>1</sup>/ **This document is reproduced without editing, as received by the Secretariat.**

Remarks:

- South Africa believes that there should not be any differentiation between groups of non-state actors, as this may result in an imbalance in the assistance that affected civilian populations may receive. We wish to emphasise that States Parties should, where in a position to do so, assist all affected populations. In areas where there are affected populations, there are other important considerations when States Parties determine their priorities for co-operation and assistance, such as rendering mine action assistance in areas with the highest impact.

**Action #54**

“In situations where States Parties have retained mines in accordance with the exceptions in Article 3, provide **on a voluntary basis** information on the plans requiring the retention of mines for the development of and training in mine detection, mine clearance, or mine destruction techniques and report on the actual use of retained mines and the results of such use.”

Remarks:

- If read in conjunction with the introductory language to the section which states, “All States Parties will”, this Action would amount to an additional reporting obligation. Many States Parties, including those in Africa, are already experiencing difficulties in meeting their existing transparency reporting obligations. It will also be difficult for many States Parties, including South Africa, which, besides its use of mines for training purposes, is actively involved in development techniques, to predict the exact plans and quantities for which these mines will be used during the ensuing reporting period.

**Action #64**

Delete and replace with:

**Fully implement the provisions of Article 9 by taking appropriate measures against individuals and entities, including non-state actors, engaged in acts contrary to the Convention in areas under States Parties’ jurisdiction or control.**

Remarks:

- The text in Action #64 as currently presented simply needs to be redrafted to make it clear that non-state actors are not immune from prosecution and that they will be held accountable for their actions by States Parties in the implementation and enforcement of Article 9 measures by such States Parties.
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